

## Maritime Administration, DOT

## § 327.4

members of crews (hereafter referred to as “seamen”) employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor.

### § 327.2 Statutory provisions.

These regulations are enacted to implement the administrative claims procedures set forth in 50 U.S.C. App. 1291(a).

### § 327.3 Required claims submission.

All claims specified in 50 U.S.C. App. 1291(a) shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5, prior to institution of court action thereon.

### § 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

- (1) In writing,
- (2) Designated as a claim,
- (3) Disclose that the object sought is the administrative allowance of the claim,
- (4) Comply with the requirements of this part, and
- (5) Filed as provided in § 327.5.
- (6) The claim must be signed or attested to by the claimant. The statements made in the claim should be made to the best of the knowledge of the claimant and are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 U.S.C. 30901 *et seq.*), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

- (1) With respect to the seaman:
  - (i) Name;
  - (ii) Mailing address;
  - (iii) Date of birth;
  - (iv) Legal residence address;
  - (v) Place of birth; and

(vi) Merchant mariner license or document number and social security number.

(2) With respect to the basis for the claim:

(i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident, including a statement explaining why the United States is liable for this claim;

(v) Pictures, video recordings and other physical evidence related to the case and

(vi) The names, addresses, and telephone numbers, if available, of others who can supply factual information about the incident and its consequences.

(3) A sum certain dollar amount of claim, which includes a total for all amounts sought. The claim shall explain the amounts sought for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MarAd to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim:

## **§ 327.5**

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting information concerning the nature and dollar amount of the loss.

### **§ 327.5 Filing claims.**

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) The claimant shall send the claim directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590. A copy of each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose.

### **§ 327.6 Notice of allowance or disallowance.**

MarAd shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

### **§ 327.7 Administrative disallowance presumption.**

If MarAd fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. App. 1291(a).

## **46 CFR Ch. II (10–1–13 Edition)**

### **§ 327.8 Court action.**

(a) No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. App. 1291(a), their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 and shall have been administratively disallowed in accordance with § 327.6 or 327.7.

(b) This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as "seamen") employed on vessels through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor organization.

## **Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation**

### **§ 327.20 Admiralty Jurisdiction Extension Claims: Required claims.**

(a) Pursuant to 46 U.S.C. 30101(c) of the Admiralty Extension Act (AEA), administrative claims involving the extension of admiralty jurisdiction to cases of damage or injury on land caused by a Maritime Administration vessel on navigable waters must be presented in writing to the Maritime Administration in accordance with §§ 327.20 through 327.34 prior to institution of a court action thereon.

(b) A civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters may not be brought until the earlier occurrence of either the denial of the claim by the Maritime Administration or the presumptive denial of the claim which arises 6 months after the claim has been presented in writing to the Maritime Administration. 46 U.S.C. 30101(c)(2). Note that the 6 month period of review will not begin until a valid claim is filed pursuant to § 327.25.

(c) Proceedings against the United States pursuant to the requirements of